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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,331	04/14/2004	Olivier J. A. Schueller	H0498.70168US01	5408

7590 04/29/2008
Timothy J. Oyer, Ph.D.
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600 Atlantic Avenue
Boston, MA 02210

EXAMINER

SIMONE, CATHERINE A

ART UNIT	PAPER NUMBER
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1794

MAIL DATE	DELIVERY MODE
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04/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/824,331	Applicant(s) SCHUELLER ET AL.	
	Examiner Catherine Simone	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 52,54-56,62 and 63 is/are pending in the application.
- 4a) Of the above claim(s) 62 and 63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 52 and 54-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/11/2008 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 52 and 54-56 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The recitation "portions of the surface defining the indentations being of material essentially identical to that of portions of the surface defining the protrusions" in claim 52 is deemed new matter. Applicant states that support for the claim amendment may be found in the specification on page 6, lines 3-13 and on page 17, lines 1-11 and in the figures. However, after reviewing the specification and figures of the present application, as originally filed, no such support is provided for this new recitation. The specification and figures of the present application, as originally filed, fail to provide clear support for the new recitation "portions of the

surface defining the indentations being of material essentially identical to that of portions of the surface defining the protrusions", as recited in claim 52. Thus, this new recitation is deemed new matter.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

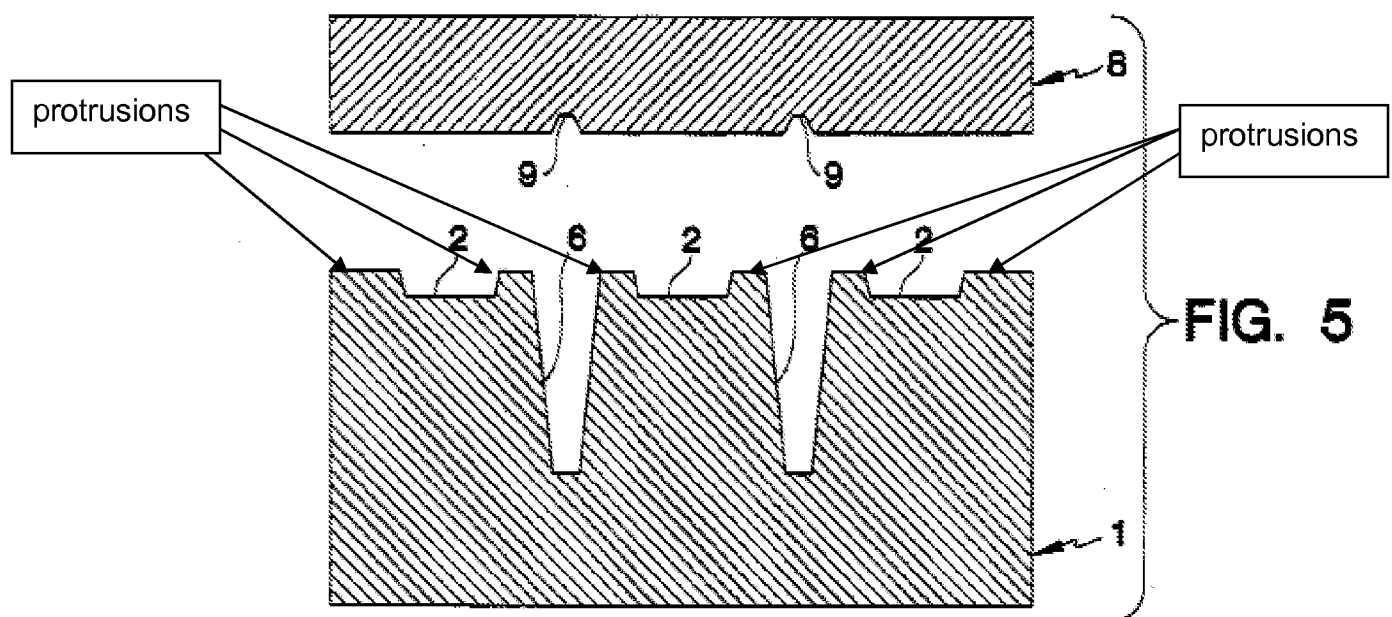
5. Claims 52 and 54-56 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohman (US 5,443,890).

Regarding claim 52, Ohman teaches an article comprising a first component (Figs. 5 and 9, bottom plate 1), which is made of plastic (polymer) material (col. 4, line 18), having a surface defining a plurality of protrusions (see Fig. 5 shown below) and a plurality of intervening indentations (Fig. 5, elements 2 and Fig. 9, elements 10), wherein the portions of the surface defining the indentations is deemed to be of material essentially identical to that of portions of the surface defining the protrusions, since the first component (bottom plate 1), which includes both the protrusions and indentations, is made of a single material (col. 4, lines 13-18), with the protrusions bonded to a surface of a second component (Fig. 9, top plate 7) in the absence of auxiliary adhesive thereby defining a liquid-impermeable seal therebetween (col. 2, lines 18-23), wherein the liquid-impermeable seal is deemed to comprise siloxane bonds, since it comprises silicone rubber (col. 4, lines 7-12), and wherein the plurality of intervening indentations (Fig. 9, elements 10) are not bonded to the surface of the second component.

Regarding claim 54, note first portions of the surface of the polymeric component (Fig. 9, #1) are bonded to the surface of the second component (Fig. 9, #7) while a second portion of the surface of the polymeric component, intervening the first portions of the surface of the polymeric component, is free of contact with the surface of the second component (Fig. 9, #10).

Regarding claim 55, note first portions of the surface of the second component (Fig. 9, #7) are bonded to the surface of the polymeric component (Fig. 9, #1) while a second portion of the surface of the second component, intervening the first portions of the surface of the second component, is free of contact with the surface of the polymeric component (Fig. 9, #10).

Regarding claim 56, note the surface of the second component can be metal (col. 9, line 14).



Response to Arguments

6. Applicant's arguments filed 3/11/2008 have been fully considered but they are not persuasive.

Applicant argues "Ohman teaches a first component having a plurality of protrusions and a plurality of intervening indentations, wherein the protrusions of the first component are bonded to a second component and the protrusions comprise a material that is different than that of the intervening indentations. For example, Fig. 9 of Ohman shows a first component (Fig. 9, #1) comprising a plurality of protrusions and intervening indentations, wherein the protrusions are bonded to the surface of a second component (Fig. 9, #7) and the protrusions comprise a different material (e.g., sealing strips 5) than that of the intervening indentations".

However, as shown in the 102 rejection above, Ohman clearly teaches an article comprising a polymeric component (Figs. 5 and 9, bottom plate 1; see col. 4, line 18), having a surface defining a plurality of protrusions (see Fig. 5 shown above) and a plurality of intervening indentations (Fig. 5, elements 2 and Fig. 9, elements 10), wherein the portions of the surface defining the indentations are of material essentially identical to that of portions of the surface defining the protrusions, with the protrusions bonded to a surface of a second component (Fig. 9, top plate 7) in the absence of auxiliary adhesive, as required by amended claim 52. The portions of the surface defining the indentations are deemed to be of material essentially identical to that of portions of the surface defining the protrusions, since the polymeric component, which includes both the plurality of protrusions and the plurality of intervening indentations (Figs. 5 and 9, bottom plate 1), in Ohman is being made up of a single material (col. 4, lines 13-18). The material making up the protrusions would not be different from the material of the indentations, since the component (Figs. 5 and 9, bottom plate 1) is made up of a single material. Thus,

Ohman clearly teaches the portions of the surface defining the indentations are of material essentially identical to that of portions of the surface defining the protrusions, as required by claim 52. Accordingly, Ohman clearly teaches each limitation, so claim 52 is not patentable over Ohman. Furthermore, claims 54-56, which depend from claim 52, are also not patentable over Ohman.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (571) 272-1501. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571) 272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Catherine Simone/
Examiner, Art Unit 1794
April 23, 2008

/KEITH D. HENDRICKS/
Supervisory Patent Examiner, Art Unit 1794